

# **EXHIBIT 14**

March 7, 2017

## **Expert Report Concerning Methodology to Calculate Damages and Installation of NIBCO PEX Products**

*Cole, et al. v. NIBCO, Inc.*  
Civil Action No. 3:13-cv-07871-FLW-TJB (D.N.J.)

Prepared by:

Ed Slovak  
New Construction Manager/Repipes  
Arizona Delta Mechanical, Inc.  
6056 E. Baseline Road, Suite 155  
Mesa, AZ 85206  
Telephone: (602) 903-2420  
Email: eds@deltamechanical.com

Recipients:

Bruce D. Greenberg  
Lite DePalma Greenberg, LLC  
570 Broad Street, Suite 1201  
Newark, New Jersey 07102  
Telephone: (973) 623-3000  
Email: bgreenberg@litedepalma.com

Joseph G. Sauder  
McCune Wright Arevalo LLP  
1055 Westlakes Drive, Suite 300  
Berwyn, PA 19312  
Telephone: (610) 200-0580  
Email: jgs@mccunewright.com

Kyle A. Shamberg  
Lite DePalma Greenberg, LLC  
211 W. Wacker Drive, Suite 500  
Chicago, IL 60606  
Telephone: (312) 750-1265  
Email: kshamberg@litedepalma.com

## **INTRODUCTION**

I am over 18 years of age. I have knowledge of the facts I state, and I am competent to testify about these facts. I am a Master Plumber residing in Las Vegas, Nevada. I submit this report in support of Plaintiffs' claims against the Defendant, NIBCO, Inc., which manufactures, warrants, markets and sells a line of cross-linked polyethylene ("PEX") plumbing tubing/pipes, fittings which connect the PEX tubing together, and crimps and clamps which join the PEX tubing and fittings for use throughout the United States.

In the *Cole* case, I have been asked to review the allegations made by the Plaintiffs and provide a methodology to calculate repair or repiping costs for Plaintiffs and class members. Based on the allegations in the Amended Complaint, Plaintiffs allege that the NIBCO PEX products are defective. If NIBCO's PEX products are defective as alleged, it is my professional opinion that a complete replumb (also known as a repipe) of Plaintiffs' and class members' homes and other structures containing NIBCO's PEX products is necessary because it is the only way to prevent the NIBCO PEX products from failing and causing catastrophic damage to the structures and personal property. This opinion is based on my 36 years of education, training and experience in construction, primarily in plumbing (including PEX installations and repipes) and related installations (e.g., gas pipes, sprinkler systems, etc.), along with industry standards and practices.

I am currently employed as the New Construction Manager/Repipes with Delta Mechanical, Inc. located in Mesa, Arizona. I currently hold a Master Plumber License in the State of Nevada, #1300060447 NBOPE. I am certified in most major PEX potable water systems available for purchase and installation including: Viega, REHAU, Uponor and Zurn. I have provided plumbing and repiping estimates for a wide variety of projects including single family residential projects, multi-family high-rise structures, military structures and commercial buildings

located in various states including Arizona, Nevada, Hawaii, California and others, and have followed through on such projects. Attached as "Exhibit A" is a copy of my current resume.

**CALCULATING REPIPING COSTS:  
ESTIMATES ON A PER FIXTURE BASIS**

Based on accepted industry standards and practices, the process for repiping an existing plumbing system is as follows. The contractor begins with a walkthrough of the premises to discover the affected areas. The contractor then removes the drywall and the existing plumbing system (the NIBCO PEX system in this case) from the affected areas. The contractor then installs a new code-compliant potable water piping system and inspects the plumbing system to ensure proper function. The contractor next resets and re-textures all the drywall previously removed and performs any necessary painting and cleanup work. The contractor finally performs a walkthrough of the premises with the owner to obtain the owner's approval of the repiping.

The standard methodology for determining the cost to repipe an existing plumbing system is to calculate the number of plumbing fixtures in the residence, using certain factors (like whether the fixture has both hot and cold water) to increase or decrease that number, as explained below. The standard cost is \$600 per full plumbing fixture (e.g., bathtub, shower, water heater, etc.)<sup>1</sup> and \$300 per half-fixture (e.g., toilet, icemaker, etc.). Half-fixtures require either only cold or hot water piping, whereas full plumbing fixtures require both cold and hot water piping. A larger

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<sup>1</sup> The \$600 per full plumbing fixture cost is based on past experiences and job costing of these completed jobs. The approximate cost breakdown of materials and labor for each full plumbing fixture, based on averages, is as follows:

- Cost of protection of floors, walls and additional items that may be impacted – \$50 per plumbing fixture,
- Drywall removal at plumbing fixtures for removal of existing water piping system – \$50 per plumbing fixture,
- Removal of existing water piping system – \$50 per plumbing fixture,
- Installation of new potable water system – \$310 per plumbing fixture,
- Drywall replacement and other needed repairs, including texture and paint – \$125 per plumbing fixture (paint colors need to be specially matched to previously applied paint), and
- Cleaning of all areas where repiping was performed to previously existing condition – \$15 per plumbing fixture.

building will require more plumbing fixtures, which will increase the total cost of the job, and a smaller building will have fewer plumbing fixtures, which will decrease the total cost of the job. Unit cost methodology is a standard of the industry and commonly used by plumbers across the country. Thus, the total cost coincides with a standard cost per each fixture for a structure of any size.<sup>2</sup>

The values in the following fixture count, which labels fixtures as a half-fixture or whole fixture, determine the cost of a job:

- a. Water Closet / Toilet – ½
- b. Bathtub – 1
- c. Bathtub with Shower Head – 1
- d. Shower – 1
- e. Lavatory Sink – 1
- f. Washing Machine Faucets – 1
- g. Icemaker Line – ½
- h. Hose Bib / Water Hose Faucet – ½
- i. Water Heater – 1
- j. Dishwasher – ½
- k. Water Softener Loop – 1
- l. Hot Water Circulating Loop – 1
- m. Pot Filler – ½
- n. Bidet – 1
- o. Laundry Sink – 1
- p. Vegetable Sink – 1
- q. Wash Sink – 1
- r. Bar Sink – 1
- s. Main Line if Outside the Residence if NIBCO PEX – 1

Based on my opinion as professional plumber, a cost-per-fixture methodology accurately estimates the cost to replumb structures and can be used to calculate the costs for Plaintiffs and all class members. A similar method was used in the Kitec class action settlement (see below) to calculate the class members' repair costs or settlement benefits to be awarded and it was efficient and accurate. Further, Delta Mechanical uses this method in its everyday business.

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<sup>2</sup> This calculation only includes the cost to repipe a structure with NIBCO PEX products currently installed, and does not include the damages associated with past failures of the products in a particular structure.

### **PRIOR CLASS ACTION REPIPING EXPERIENCE**

Between 2006 and 2014, I helped develop protocols for and supervised replumbing efforts related to the Kitec PEX class action settlement in Nevada and Arizona. My work included: developing a scope of work for the replumbing, scheduling and coordinating approximately 60 plumbers to complete replumbing in the Nevada and Arizona region, developing a methodology or procedure for estimating materials and costs for replumbing as required for the class settlement, coordinating subcontractors, coordinating project clean-up, and overseeing the replumbing of class members' properties including communicating with the attorneys who were coordinating and overseeing the implementation of the requirements of the settlement.

### **INSTALLATION OF PEX PRODUCTS**

In preparing this report, I reviewed NIBCO's PEX Installation Manuals. My decades of plumbing experience, including as a Master Plumber, along with my review of these NIBCO Manuals, qualifies me to give my opinion on any installation questions that may arise in expert discovery in this case.

### **CONCLUSIONS**

Based on my opinion as Master Plumber with decades of plumbing and repiping experience, repiping damages can be calculated class-wide at \$600 per fixture unit, as described above. If the allegations concerning NIBCO's PEX products in the Amended Complaint are accurate, completely repiping all NIBCO PEX installations with new potable water systems is the only remedy I can suggest.

Ed Slovak

A handwritten signature in black ink, appearing to read "Ed Slovak". The signature is fluid and cursive, with a long, sweeping line extending from the right side of the name.

## **APPENDIX**

1. In preparing this report, I reviewed and considered the following materials:
  - Second Amended Class Action Complaint, *Cole, et al. v. NIBCO, Inc.*, Civil Action No. 3:13-cv-07871-FLW-TJB (D.N.J.)
  - NIBCO DURA-PEX Piping Systems Installation Manuals, produced by NIBCO
  - NIBCO DURA-PEX Piping Systems Home Run Manifold Installation Manuals, produced by NIBCO
  - Uniform Plumbing Code (UPC)
  - International Plumbing Code (IPC)
  - Viega, REHAU and Uponor PEX installation manuals
  - Materials from IPEX/Kitec settlement ([www.kitecsettlement.com](http://www.kitecsettlement.com), [www.plumbingdefect.com](http://www.plumbingdefect.com))
2. In the past 10 years, I have not authored any publications.
3. In the past 4 years, I have not testified as an expert at trial or by deposition.
4. I am being compensated at a rate of \$175 per hour for my time preparing for and writing this report and any testimony I may give in this case.